THE HON'BLE Dr. JUSTICE G. YETHIRAJULU

W.P.No.27809 of 1995

Dated this the 20th day of March, 2006

Between:

G. Prabhakara Keeper, C.K.M. Rao, 47 years,

S/o. Satyanrayana Rao,

Occ: Museum Arts & Science College,

Warangal, Warangal District.

… **Petitioner**

and

The Commissioner of Collegiate Education,

Government of Andhra Pradesh,

Hyderabad, and five others.

… **Respondents**

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W.P.No.27809 of 1995

ORDER:

This Writ Petition is filed praying to declare the proceedings dated 16-09-2005 issued by the first respondent and the action of the fourth respondent in not paying the difference of pay and allowances between the aided post of Museum Keeper and the post of Store Keeper, as illegal and arbitrary and consequently to direct the respondents to absorb the petitioner in the post of Store Keeper with effect from

23-11-1990 i.e., the date of selection by the Departmental Promotion Committee.

The respondent did not file any counter. The petitioner was a Graduate. The fourth respondent when notified the post of Store Keeper, the Employment Exchange sponsored the petitioner along with others. On 25-09-1973 the fourth respondent selected and appointed the petitioner as Store Keeper as a direct recruitee in the Lower Division Clerk category with a starting pay scale of Rs.90-192/- per month. One Sri K. Rajeshwar Rao was reverted from the Store Keeper to the post of Record Assistant on the ground that he has passed H.S.C. compartmentally. The action of the College Authorities in reverting Sri Rajeshwar Rao was challenged before the second respondent. The second respondent, vide proceedings dated
20-08-1981, directed the fourth respondent to consider the case of Sri Rajeshwar Rao for promotion as Store Keeper. On that, the fourth respondent issued a notice directing the petitioner to inform if there is any objection, to the Management for taking further action in the matter, failing which he will be posted as Museum Keeper with effect from 01-04-1977. Though the petitioner did not raise any objection to the post of Museum Keeper on an assurance given by the fourth respondent that he would be shortly promoted to the post of Store Keeper and his pay would be protected, the petitioner was continuing as Museum Keeper. Later, the fourth respondent's Management, on 20-11-1990, recommended the name of the petitioner for promotion to Store Keeper to the Departmental Promotion Committee. After approval of the governing council of the institution, the first respondent, having kept the matter pending for about five years, passed the impugned order to the following effect.

> "the promotion of Sri G.Prabhakar Rao as Store Keeper and Sri J. Muthaiah as Museum Keeper is rejected as the Departmental Promotion Committee has not considered the claims of seniors and resolved to promote juniors to higher cadre."

Being aggrieved by the order of the first respondent dated 16-09-1995, the petitioner approached this Court through this writ petition.

The original appointment of the petitioner as Store Keeper was confirmed by the Management, through the order dated
28-02-1977, but later, his post was redesignated as Museum Keeper with effect from 01-04-1977. However, he was allowed to draw the scale of Store Keeper for some time and later they stopped paying the said scale.

Though the first respondent mentioned in the order that the seniors have been ignored, the learned counsel for the petitioner represented that there are no seniors above the petitioner and the Commissioner without mentioning as to who are the seniors that were left, passed the impugned order, which is illegal. When the Management took a decision to promote the petitioner and when the Departmental Promotion Committee recommended and when there is a clear vacancy and when the petitioner is fully qualified, there cannot be any objection to the Commissioner and a cryptic order has been passed without mentioning who are the seniors, who were ignored and what was the information the Commissioner received regarding the over looking the seniors from consideration. The learned counsel further submitted that though the petitioner is redesignated as Museum Keeper, he continued to be substantiated as Store Keeper, therefore, he is entitled to be considered for promotion as Store Keeper. The learned counsel further submitted that the petitioner retired from service on 31-01-2006.

After going through the entire correspondence and the proceedings in favour of the petitioner, I am inclined to issue a direction to the first respondent to permit the petitioner as Store Keeper.

In the result, the writ petition is allowed. The fourth respondent is directed to send the revised proposal to the first respondent and on receiving the proposal, the first respondent shall pass appropriate orders accepting the recommendations of the Departmental Promotion Committee with effect from the date of earlier recommendation and after receipt of the proceedings, the Management is directed to give notional promotion to the petitioner and pay the difference of pay, if any, and pay and allowances payable to the petitioner within three months from the date of receipt of the order of first respondent. No order as to costs.

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Dr.G. YETHIRAJULU, J

Date: 20-03-2006

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